

MORGAN COUNTY CIRCUIT COURT

STATE OF ALABAMA,

Plaintiff,

-VS-

TESTIMONY

HAYWOOD PATTERSON,

Defendant.

A P P E A R A N C E S

FOR THE STATE

Attorney General Knight
Assistant Atty. Gen. Lawson

FOR THE DEFENDANT

Hon. Joseph R. Brodsky

Testimony taken before the Hon. James E. Horton
at Decatur, Alabama, on April 17th, 1933, on the motion for
a new trial.

MR. BRODSKY: I would like to request of the Court that the Sheriff who had the jury in custody be called to the stand, I desire to ask him some questions, which I intend to include in my motion for a new trial.

COURT: At the time of the motion I will take that up. The Court will have the bailiff examined at the proper time.

MR. BRODSKY: I will tell you why, if the Court please, I want to call him at this time; the reason for it is, we have information that while the jury sat on the case of Haywood Patterson in their deliberations they received and made telephone calls, and I want to inquire from the bailiff whether that is a fact.

COURT: Is Mr. Britnell in court. I will ask this for my own information.

MR. BRITNELL, called as a witness after being
duly sworn testified as follows:

MR. BRODSKY: I object to the Prosecutor speaking
to the bailiff now.

COURT: He said he objected to you speaking
to the bailiff in court.

GENERAL KNIGHT: That is rather a strange
proceeding, I just want to ask him about the
telephone conversations.

MR. BRODSKY: I think we should have that in the
record, and we object.

GENERAL KNIGHT: Object all you want to, I have
a perfect right to talk to any witness in this
court and expect to.

COURT: I will let him talk to him if he wants
to.

MR. BRODSKY: I except.

COURT: Mr. Britnell, there was a statement made here in regard to some of the jurors talking over the telephone?

A They did with my permission; one juror that was sick called the druggist, then they had to have clean clothes sent up, and Mr. Groves called his wife twice who was sick.

COURT: Were all the conversations in your presence.

A Yes sir.

MR. BRODSKY: There was a telephone there wasn't there?

A Yes sir.

MR. BRODSKY: In the room the jury occupied?

A Yes sir.

MR. BRODSKY: There were several telephone calls during the time.

A Several came through my room, they couldn't talk over any telephone but that one I had, because I had the Manager cut them all out but that one.

MR. BRODSKY: You didn't hear what the persons at the other end said?

A No sir.

MR. BRODSKY: I want the record to show Mr. Knight

the Prosecutor called him into the witness room to talk with him before he was put on the stand, may the record show that.

GENERAL KNIGHT: I would like for the record also to show the Attorney General of this State asked the permission of the Court to talk to the bailiff, with a view of ascertaining whether or not the jury conducted itself properly. It is highly proper in my opinion for the Attorney General to see that the jury does properly conduct itself in its deliberations.

MR. BRODSKY: I will make a motion to set aside the verdict on the ground it clearly appears the jury did receive communications from the outside.

COURT: You can put that in your motion, I don't care to take the motion up in piece meal.

A. If I understood the instructions they were not to talk about the case; nothing was said about them calling up about medicine, sick folks and clean clothing or anything like that. There wasn't anything said about the case and that is what I was instructed not to let them talk about.

MR. BRODSKY: Didn't you understand as a part of

your duty in having custody of the jury was to keep them free from outside communications?

A About the case.

MR. BRODSKY: You don't know what it was or who it was, you didn't hear what the people said on the outside?

A I didn't hear them talk about the case, that is the question.

MR. BRODSKY: You didn't hear what was said by the person who called up the jury?

A Not from the other end, no sir.

GENERAL KNIGHT: You never heard any one of these parties discuss this case in the presence of one of the jurors?

A No sir.

STATE OF ALABAMA)
)
MORGAN COUNTY)

I, HAROLD HARLIN, Official Reporter of the
Eighth Judicial Circuit hereby certify that I was the
Official Reporter who took down the testimony of the
witness Britnell taken on the motion for a new trial
in the case of State of Alabama vs. Haywood Patterson,
commencing on the 17th day of April, 1933, and that
the foregoing is a true and correct transcript of
said testimony as transcribed by me personally.

This June 11th, 1933.

(SGD) HAROLD HARLIN

Official Reporter.



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